MOPAC | MAYOR OF LONDON
OFFICE FOR POLICING AND CRIME

REQUEST FOR DMPC DECISION – PCD 306

Title: Application for Financial Assistance for the legal representation of serving police officers

Executive Summary:

The Deputy Mayor for Policing and Crime (DMPC) is asked to consider an application for retrospective financial assistance of £61,725.82 (incl. VAT) made by the Applicants for legal representation at inquest and judicial proceedings directly connected to the inquest.

The DMPC has power to grant the application of £61,725.82 (incl. VAT) if she is satisfied that funding the Applicants' legal expenses in the proceedings is likely to secure an efficient and effective police force. The DMPC has delegated authority, under 4.9 of the MOPAC Scheme of Delegation and Consent, to consider the current application for financial assistance.

Recommendation:

The DMPC is asked to approve the application for financial assistance made by the Applicants for the sum of £61,725.82 (inc VAT) for the reasons set out in Part 2.

Deputy Mayor for Policing and Crime

I confirm I have considered whether or not I have any personal or prejudicial interest in this matter and take the proposed decision in compliance with the Code of Conduct. Any such interests are recorded below.

The above request has my approval.

Signature Sophie Linden **Date** 21/12/17

PART I - NON-CONFIDENTIAL FACTS AND ADVICE TO THE DMPC

Decision required – supporting report

1. Introduction and background

1.1. Part 2 of this Report is exempt because it falls within an exemption specified in para 2(2) of the Elected Local Policing Bodies (Specified Information) Order 2011 and/or under the Freedom of Information Act 2000, e.g. because the information amounts to personal data, is confidential or commercially sensitive.

1.2. The deceased died on 19 December 2014. He lost control of his moped and crashed into two stationary vehicles belonging to members of the public. He was riding a stolen Vespa scooter with a false registration number. At the time of the collision, he was being followed by two unmarked police cars containing the four officers.

1.3. An IPCC investigation took place in relation to the death and was critical of the officers' actions. It found that they conducted a pursuit of the deceased without authorisation from a senior officer in the control room and that they did not consider the risks to the deceased of the pursuit or make any consideration as to whether he may have been a juvenile.

1.4. The investigation recommended that the four officers all had cases to answer for gross misconduct. The MPS agreed with the findings for two of the officers but disagreed for the other two. The IPCC used its powers to direct the MPS to hold a misconduct hearing for all four officers.

1.5. Prior to the hearing, inquest proceedings commenced on 13 June 2016. The four officers were given the status of 'Interested Person'. The officers were granted anonymity by the Coroner.

1.6. During the inquest a legal challenge was made regarding the Coroner's decision to grant anonymity. A judicial review took place and the anonymity remained in place.

1.7. The inquest jury returned a narrative verdict. It found that the deceased died as a result of a road traffic collision, that he was aware that officers were driving an unmarked vehicle behind him and wanted him to stop and that the officers were engaged in a police pursuit as defined by the MPS standard operating procedure (SOP).

1.8. Following inquest, a gross misconduct panel found that the allegations against the officers were 'not proven'. The panel found that the officers were not engaged in a pursuit and so had not breached the force's policy on police pursuits.

1.9. These Applicants represent that they satisfy the criteria for entitlement to financial assistance namely because: they were performing official duties; they were acting in good faith and there was no neglect or wilful default on their part; and they exercised reasonable judgement.

2. Issues for consideration

2.1. For the DMPC to consider whether there was a conflict of interest requiring separate representations and financial assistance and whether the financial assistance will secure an efficient and effective force.

2.2. The DMPC has power to grant the application if she is satisfied that retrospectively funding the Applicant's legal expenses in the proceedings is likely to secure the maintenance of an efficient and effective police force.

2.3. All disciplinary proceedings regarding the Applicants are concluded.

3. Financial Comments

3.1. The solicitors acting for the officer applicants have submitted an estimate of the total costs of the separate representation in support of the application for financial assistance in the sum of £61,725.82 inc VAT.

3.2. The costs will be met from the 1996 Police Act Expenditure budget held within DLS.

4. Legal Comments

4.1. The DMPC has discretion under Section 3(6) and para. 7 of Schedule 3 of the Police Reform and Social Responsibility Act 2011 to fund police officers' legal expenses in proceedings if they consider that providing the funding secures the maintenance of an efficient and effective police force, R -v- DPP ex parte Duckenfield (2000) 1 WLR 55. The Deputy Mayor has delegated authority, under para. 2.20 of the Scheme of Delegation, to consider the current application for financial assistance.

4.2. A conflict of interests arises between the Commissioner and Applicant which gives rise to the need for separate representation and financial assistance for the reasons set out above.

4.3. Home Office Circular 43/2001 provides guidance which applies to MOPAC. Para. 12 states *"police officers must be confident that Police Authorities (now Police and Crime Commissioners) will provide financial support for officers in legal proceedings where they have acted in good faith and have exercised their judgement reasonably. Police Authorities will need to decide each case on its merits, but subject to that, there should be a strong presumption in favour of payment where these criteria are met"*.

5. Equality Comments

5.1. There does not appear to be any direct race or equality issues stemming from this decision. There is however considerable media and public interest, especially from the family of the deceased and the local community. To continue policing with the consent of the population it serves, the police must always seek to be open and transparent in the decisions made.

6. Background/supporting papers

6.1. Exempt MPS 'report on application for financial assistance

Public access to information Information in this form (Part 1) is subject to the Freedom of Information Act 2000 (FOIA) and will be made available on the MOPAC website following approval. If immediate publication risks compromising the implementation of the decision it can be deferred until a specific date. Deferral periods should be kept to the shortest length strictly necessary.
Part 1 Deferral: Is the publication of Part 1 of this approval to be deferred? NO If yes, for what reason: Until what date:
Part 2 Confidentiality: Only the facts or advice considered as likely to be exempt from disclosure under the FOIA should be in the separate Part 2 form, together with the legal rationale for non-publication. Is there a **Part 2** form – YES

ORIGINATING OFFICER DECLARATION:

	Tick to confirm statement (✓)
Head of Unit: The Judith Mullet has reviewed the request and is satisfied it is correct and consistent with the MOPAC's plans and priorities.	✓
Legal Advice: The MPS legal team has been consulted on the proposal.	✓
Financial Advice: The Strategic Finance and Resource Management Team has been consulted on this proposal.	✓
Equalities Advice: Equality and diversity issues are covered in the body of the report.	✓

OFFICER APPROVAL

Chief Executive

I have been consulted about the proposal and confirm that financial, legal and equalities advice has been taken into account in the preparation of this report. I am satisfied that this is an appropriate request to be submitted to the Deputy Mayor for Policing and Crime.

Signature R. Lawrence **Date** 20/12/17

APPLICATION FOR FINANCIAL ASSISTANCE
OPEN REPORT – 8th December 2017

Report by Directorate of Professional Standards on behalf of the Commissioner

EXECUTIVE SUMMARY
This report contains an application made retrospectively for financial assistance in connection with Inquest proceedings and Judicial Review proceedings.

A. RECOMMENDATIONS

1. It is recommended that the application be granted for the reasons set out in the exempt report.

B. SUPPORTING INFORMATION

Introduction and Background Facts

1. This report is exempt because it falls within an exemption specified in para 2(2) of the Elected Local Policing Bodies (Specified Information) Order 2011 and/or under the Freedom of Information Act 2000, e.g. because the information amounts to personal data, is confidential or commercially sensitive.

2. Inquest proceedings commenced on the 13th June 2016. The 4 officers concerned were accorded the status of an Interested Person. The officers were granted anonymity by the Coroner.

3. The deceased, died on 19th December 2014. He was riding a stolen Vespa scooter with a false registration number. He was being followed by 2 unmarked police cars.

4. The IPCC investigation was critical of the officers' actions, and that they should face gross misconduct hearings.

5. The inquest concluded with a narrative outcome.

6. A challenge to the anonymity of the witnesses was made during the inquest and judicially reviewed at the high court.

7. A Gross Misconduct panel was convened and the allegations were determined by the panel as 'not proven'.

8. There is a clear conflict of interests between the position of the Commissioner and the Applicant and accordingly the Applicants required separate legal representation and financial assistance.

9. The Applicants represent that they satisfy the criteria for entitlement to financial assistance namely: that they were performing their official duties; that they were acting in good faith and there was no neglect or willful default on their part; and that they exercised reasonable judgement.

10. The Commissioner's position in relation to the Applicant's representations for financial assistance are set out in the exempt report.

Issues for consideration

1. The DMPC must consider whether the financial assistance will secure an efficient and effective Metropolitan Police Force.

C. OTHER ORGANISATIONAL & COMMUNITY IMPLICATIONS

Equality and Diversity Impact

1. To continue policing with the consent of the population it serves, the police will always seek to treat everyone fairly and openly. Race or equality issues do not impact in this matter.

2. There was media and family/community interest in this case at the time and afterwards.

Financial Implications

1. The solicitors acting for the officer applicants have submitted the total costs of the separate representation in support of the application for financial assistance.

2. The funding will be met from the 1996 Police Act Expenditure budget held within DLS.

Legal Implications

1. The DMPC has a discretion under Section 3(6) and para. 7 of Schedule 3 of the Police Reform and Social Responsibility Act 2011 to fund police staff legal expenses in proceedings if they consider that providing the funding secures the maintenance of an efficient and effective police force. The Deputy Mayor has delegated authority, under section 4.10 of the Scheme of Delegation, to consider this application for financial assistance.

2. A conflict of interest arose between the Commissioner and the officers which gave rise to the need for separate representation and financial assistance for the reasons set out above.

3. Home Office Circular 43/2001 provides guidance which applies to MOPAC. Para. 12 states:

"Police officers must be confident that Police Authorities (now Police and Crime Commissioners) will provide financial support for officers in legal proceedings

where they have acted in good faith and have exercised their judgement reasonably. Police Authorities will need to decide each case on its merits, but subject to that, there should be a strong presumption in favour of payment where these criteria are met".

Consultation undertaken

1. N/A

Risk (including Health and Safety) Implications

1. Nil

Environmental Implications (if relevant to the subject)

1. Nil

Report author: Detective Sergeant Tina Macleod, DPS

Background papers: See Exempt report